

AN ORDINANCE of the City of Pullman relating to Construction and
Post-Construction Stormwater Control and Regulations

WHEREAS, the City of Pullman (the "City") is regulated under the Washington State Department of Ecology's Eastern Washington Phase II Municipal Stormwater Permit (the "Permit"); and

WHEREAS, the City will be adopting code, policies and procedures as needed to comply with the Permit; and

WHEREAS, the Permit requires that a Stormwater Construction and Post-Construction Ordinance become effective no later than February 16, 2011.

NOW, THEREFORE, the City Council of City of Pullman, Washington does hereby ordain as follows:

Section 1. A new Chapter 10.32 is added to Title 10 of the Pullman City Code (PCC) to read as follows:

10.32.010 Policy and Purpose

It is the policy of the City to encourage development project proponents to maintain natural drainages and beneficial drainage patterns to the maximum extent practicable, including minimizing the total amount of impervious surfaces created by proposed projects. Developers and engineers are encouraged to suggest innovative approaches to assist the City in meeting this policy objective.

The purpose of this Chapter is to guide the design, construction and management of stormwater drainage facilities, to protect stormwater quality during and after construction, to provide long-term responsibility for and maintenance of construction and post-construction Best Management Practices (BMPs), to establish legal authority to carry out the inspection and monitoring procedures necessary to ensure compliance with this Chapter, to fund stormwater management activities related to development and to comply with state and federal law.

10.32.020 Definitions

1. "Administrator" means as further defined in PCC 10.32.030
2. "Applicant" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns, who is responsible under this Chapter for filing the application, paying the fees, reporting to the City or Administrator, scheduling inspections, filing as built drawings and requesting the stormwater certification of completion. It can mean the owner, developer, responsible engineer and contractors or subcontractors who must comply with illicit discharge detection and elimination (Chapter 10.31), erosion and sediment control plan or a stormwater pollution prevention

plan until issuance of the stormwater system certificate of completion. Following issuance of the stormwater certification of completion, maintenance of the stormwater system will be the duty of the property owner.

3. "Best management practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and structural or managerial practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
4. "CESCL (Certified Erosion and Sediment Control Lead)" is the person designated as the responsible representative in charge of erosion and sedimentation control. The CESCL shall be qualified in construction site erosion and sediment control regulatory requirements and BMPs, and shall have thorough knowledge and understanding of the Construction Stormwater Pollution Prevention Plan (SWPPP) for the project site and shall have a current Ecology approved certification.
5. "Channel" or "Waterway" means an open conduit, either naturally or artificially created, which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water.
6. "Clearing" or "Site Clearing" means the removal of timber, brush, grass, ground cover or other vegetative matter from a site.
7. "Common Plan of Development" means a site where multiple separate and distinct construction activities may be taking place at different times on different schedules, but still under a single plan. Examples include: phased projects and projects with multiple filings or lots, even if the separate phases or filings/lots will be constructed under separate contract or by separate owners (e.g. a development where lots are sold to separate builders); a development plan that may be phased over multiple years, but is still under a consistent plan for long-term development; and projects in a contiguous area that may be unrelated but still under the same contract, such as construction of a building extension and a new parking lot at the same facility. If the project is part of a common plan of development or sale, the disturbed area of the entire plan shall be used in determining permit requirements.
8. "Detention" means the release of stormwater runoff from the site at a slower rate than it is collected by the stormwater facility system, the difference being held in temporary storage with the goal of controlling peak discharge rates.
9. "Development" means new development, redevelopment, or both. See definitions below.
10. "Drainage facility(ies)" means any facility, including best management practices, installed or constructed for the purpose of controlling the flow, quantity, and/or quality of drainage water. Drainage facilities include, but are not limited to, all types of catch basins, pipes, detention ponds, biofiltration swales, and other structural and nonstructural components

that handle surface or shallow subsurface water.

11. "Drainage system" means a system to collect, convey and control release of only drainage water. The system may serve public or private property. It includes constructed and/or natural components such as drainage facilities, ditches and streams.
12. "Drainage water" means stormwater, snow melt, surface water, surface and irrigation runoff, water from roof and footing drains and other City approved drains installed in compliance with this title and rules which may be adopted hereunder. Other water which is not an illicit discharge as defined in PCC 10.31 shall be considered drainage water if it drains from the exterior of a building or structure, a pervious or impervious surface, or undeveloped land, or by surface or shallow subsurface flow.
13. "Ecology" means the Washington State Department of Ecology.
14. "EPA" means the federal Environmental Protection Agency.
15. "Erosion" means the wearing away of the ground surface as a result of mass wasting or the movement of wind and/or water.
16. "Erosion and Sediment Control" means any temporary or permanent measures taken to reduce erosion, control siltation and sedimentation, and ensure that sediment-laden water does not leave the project site.
17. "Erosion and Sediment Control BMPs" means BMPs that are intended to reduce erosion and sedimentation, such as preserving natural vegetation, seeding, mulching and matting, plastic covering, silt fences, inlet protection, and ponds. Erosion and sediment control BMPs are synonymous with stabilization and structural BMPs.
18. "Erosion and Sediment Control Plan" or "ESC Plan" means a set of plans indicating the specific measures and sequencing to be used to control sediment and erosion on a project site during and after project activities. The ESC Plan shall be implemented beginning with initial soil disturbance and continue until final stabilization. Each ESC Plan shall bear the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained together with the name of the principal contact at such firm.
19. "Grading" means any excavation, filling, or combination thereof, modification of land contours and/or modification of waterways or drainage areas. Grading is subject to the provisions of this Chapter whether or not new development or redevelopment is planned at the project site where grading is conducted.
20. "Illicit discharge" means any direct or indirect non-stormwater discharge to the Municipal Separate Storm Sewer System (MS4) or waters of the state except as permitted or exempted in PCC 10.31.
21. "Impaired Waters" means those streams and rivers that currently do not meet their designated use classification and associated water quality standards under the Clean

Water Act and listed on the most current State of Washington 303(d) list.

22. "Impervious Surface" means a surface which is covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other oiled, graveled, graded or compacted surface, or any other surface which impedes the natural infiltration of surface water.
23. "Inspector" means the person designated by the City or a third party inspector performing inspections mandated by this Chapter. An inspector will meet the requirements of Ecology sanctioned training programs. At a minimum, inspectors will maintain CESCL certification.
24. "Land Disturbing Activity" means any activity that results in movement of earth, or a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to clearing, grading, filling, stockpiling materials and excavation.
25. "Large Projects" are development projects with land disturbing activities of one acre or more, or projects of less than one acre that are part of a common plan of development or sale. A local stormwater permit is required for Large Projects. Additionally, Large Projects must also determine whether they are subject to the requirements of Ecology's NPDES Construction Stormwater General Permit.
26. "Local Stormwater Permit (Local SW Permit)" is a permit issued by the City for Medium and Large projects and for projects that have additional environmental conditions described in Section 10.32.060(C).
27. "Medium Projects" are development projects that disturb 1,000 square feet or more but less than one acre through land disturbing activity, including the cumulative acreage of the entire project whether in a single or in a multiphase project. A local stormwater permit is required for Medium Projects.
28. "MS4" (Municipal Separate Storm Sewer System) means the system of conveyances including sidewalks, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, detention facilities, storm drains or any other facilities owned and operated by the City and designed or used for collecting, conveying or treating stormwater.
29. "National Pollutant Discharge Elimination System (NPDES) Phase II Permit" means the "Eastern Washington Phase II Municipal Stormwater Permit" issued by the Washington State Department of Ecology with an effective date of February 16, 2007 and subsequent reissues.
30. "NPDES Construction Stormwater General Permit" means the statewide general permit for construction activities administered by Ecology. All projects disturbing one acre or more of ground and having the potential to discharge directly or indirectly to waters of the state must seek coverage under the permit or meet erosivity waiver criteria.

- 1
2 31. "New Development" means any of the following activities: construction of a new building
3 or other structure; expansion or alteration of an existing structure that results in an
4 increase in the footprint of the building or structure; land disturbing activities; creation or
5 expansion of impervious surface; and subdivision and short subdivision of land as
6 defined in Pullman City Code (PCC 13.0 – Plats & Subdivisions); Commercial agriculture
7 practices are not considered new development.
8
- 9 32. "Non-Stormwater Discharge" means any discharge to the stormwater drainage system
10 that is not composed entirely of stormwater.
11
- 12 33. "Pollutant" or "Pollution" shall be construed to mean such contamination or other
13 alteration of the physical, chemical, or biological properties of any of the waters of the
14 state including change in temperature, taste, color, turbidity, or odor of the waters or such
15 discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of
16 the state that will or is likely to create a nuisance or render such waters harmful,
17 detrimental, or injurious, to the public health, safety, or welfare, or to domestic,
18 commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to
19 livestock, wild animals, birds, fish, or other aquatic life; as defined in RCW 90.48.020 as
20 now existing or hereafter amended.
21
- 22 34. "PGIS (Pollutant Generating Impervious Surface)" means surfaces that are considered to
23 be significant sources of pollutants in stormwater runoff. Such surfaces include those that
24 are subject to vehicular use, industrial activities, or storage of erodible or leachable
25 materials that receive direct rainfall or run-on or blow-in of rainfall. Metal roofs are
26 considered to be PGIS unless coated with an inert, non-leachable material. Roofs that
27 are subject to venting of indoor pollutants from manufacturing, commercial or other
28 operations or processes are also considered PGIS. A surface, whether paved or not, will
29 be considered PGIS if it is regularly used by motor vehicles. The following are considered
30 regularly-used surfaces: roads, un-vegetated road shoulders, bike lanes within the
31 traveled lane of a roadway, driveways, parking lots, unfenced fire lanes, vehicular
32 equipment storage yards, and airport runways.
33
- 34 35. "Project Site" means any lot, parcel of land, street or highway right-of-way, or contiguous
35 combination thereof, where development, land disturbing activity, or grading work is
36 proposed or performed.
37
- 38 36. "Receiving Water" means bodies of water or surface water systems to which surface
39 runoff is discharged.
40
- 41 37. "Redevelopment" means further development of a site that is already substantially
42 developed, the replacement or improvement of impervious surfaces, including buildings
43 and other structures, and replacement or improvement of impervious parking and road
44 surfaces that is not part of a routine maintenance activity. Any new impervious surfaces,
45 or any increase to existing impervious surface created by a redevelopment project are
46 subject to the requirements for new development.
47

- 1 38. "Retention" is the process of collecting and holding surface and stormwater runoff with no
2 release or outflow.
3
- 4 39. "Small Projects" are development projects where land disturbing activities are less than
5 1,000 square feet and land disturbing activity does not have the potential to disturb or
6 change existing drainage patterns. A local stormwater permit is not typically required for
7 Small Projects, but may be required per Section 10.32.060(C).
8
- 9 40. "Source Control BMPs" means a structure or operation intended to prevent pollutants
10 from coming into contact with stormwater through physical separation of areas or careful
11 management of activities that are sources of pollutants. Source control BMPs are
12 separated into two types. Structural source control BMPs are physical, structural, or
13 mechanical devices or facilities that are intended to prevent pollutants from entering
14 stormwater. Operational BMPs are non-structural practices that prevent or reduce
15 pollutants from entering stormwater.
16
- 17 41. "Stabilization" means the use of practices that prevent exposed soil from eroding.
18
- 19 42. "Stop Work Order" means an order issued that requires that all activity violating this
20 Chapter or a permit granted under this Chapter on a project/construction site be stopped.
21
- 22 43. "Stormwater" means that portion of precipitation that does not naturally percolate into the
23 ground or evaporate, but flows via overland flow, interflow, pipes and other features of a
24 stormwater drainage system into a defined surface water body.
25
- 26 44. "Stormwater Management" means the use of structural or non-structural practices that
27 are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow
28 discharge rates and detrimental changes that affect water quality and habitat.
29
- 30 45. "SWPPP" (Stormwater Pollution Prevention Plan) or "Construction SWPPP" means a set
31 of plans prepared indicating the specific measures and sequencing to be used to control
32 sediment and erosion on a development site during and after construction. Plans and
33 specifications that involve "structures, equipment, or processes required to collect, carry
34 away, treat, reclaim or dispose of industrial wastewater", including contaminated
35 stormwater, must be prepared under the supervision of a registered professional
36 engineer (P.E.) licensed by the State of Washington.
37
- 38 46. "SSP" (Stormwater Site Plan) is a comprehensive report containing all of the technical
39 information and analysis necessary for regulatory agencies to evaluate a proposed
40 development project for compliance with stormwater requirements. Contents of the SSP
41 will vary with the type and size of the project, individual site characteristics, and special
42 requirements of the City.
43
- 44 47. "Structure" means anything constructed or erected which requires location on the ground
45 or attached to something having a location on the ground.
46
- 47 48. "TMDL" (Total Maximum Daily Load) means a process established by the federal Clean

Water Act and administered by the Washington State Department of Ecology by which a water clean-up plan is developed for a particular body of water based upon a calculation of the maximum amount of a pollutant that the water body can receive and still meet State water quality standards. Approved TMDLs and their respective required actions are listed in Appendix 2 of the NPDES Phase II Permit.

49. "Watercourse" and "river or stream" means any portion of a channel, bed, bank, or bottom below the ordinary high water line of waters of the state including areas in which fish may spawn, reside, or through which they may pass, and tributary waters with defined bed or banks, which influence the quality of fish habitat downstream. This includes watercourses which flow on an intermittent basis or which fluctuate in level during the year and applies to the entire bed of such watercourse whether or not the water is at peak level. This definition does not include irrigation ditches, canals, stormwater run-off devices, or other entirely artificial watercourses, except where they exist in a natural watercourse which has been altered by humans.
50. "Waters of the state" means all lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and water courses within the jurisdiction of the state of Washington as defined in RCW 90.48.
51. "Wetlands" are areas characterized by saturated or nearly saturated soils most of the year that form an interface between terrestrial (land-based) and aquatic environments. Wetlands include marshes around lakes or ponds and along river or stream channels.

10.32.030 Administration & Enforcement

The Public Works Director or designee shall administer this chapter and shall be referred to as the Administrator. The Administrator shall have the authority to develop and implement procedures to administer and enforce this chapter. The Administrator or his designee is authorized to investigate suspected violations, issue stop work orders, issue notices of violation, issue notices of civil infraction, levy penalties, recover costs and/or institute civil actions in the court. Recourse to any single remedy shall not preclude recourse to any other remedy available to the City under PCC or State law.

10.32.040 Regulated Activities

- A. All applicants and property owners shall comply with the provisions of this Chapter and all related PCC.
- B. Any applicant who undertakes or causes to be undertaken any land disturbing activity, new development or redevelopment shall ensure that soil erosion, sedimentation, increased pollutant loads and changed water flow characteristics resulting from the activity are controlled so as to prevent or minimize pollution of receiving waters.

- C. The requirements of this Chapter are minimum requirements. They do not replace, repeal, abrogate, supersede, or affect any other more stringent requirements, rules, regulations, covenants, standards or restrictions. Where this Chapter imposes requirements which are more protective of human health or the environment than those set forth elsewhere, the provisions of this Chapter prevail. Approvals and permits granted under this Chapter are not waivers of the requirement of any other laws. Compliance is still required with all applicable federal, state and local laws and regulations.
- D. This Chapter shall be applicable to all land disturbing activity, including, but not limited to, site plan applications, subdivision applications, building permit applications and grading permit applications.

10.32.050 Permits Not Required

Small Projects are development where land disturbing activities are less than 1,000 square feet and ground disturbing activity does not have the potential to disturb or change existing drainage patterns. A Local Stormwater Permit is not typically required, but may be required per Section 10.32.060(C). Projects must comply with this Chapter, especially project/construction site entrance control and management. Off-site tracking of materials is prohibited. Failure to conform to this requirement or the Illicit Discharge Detection and Elimination Chapter (PCC 10.31) may result in a stop work order and/or fines or abatement proceedings.

10.32.060 Permits Required

- A. Medium Projects are development that disturbs 1,000 square feet or more but less than one acre through clearing, grading, excavating, or stockpiling of fill material, including the cumulative acreage of the entire project whether in a single or in a multiphase project and/or has the potential to change natural drainage patterns. It is contemplated that most Medium Projects will only require ESC plans. If the site of a Medium Project has any of the conditions set forth in Section 10.32.060(C) below, a SWPPP may be required and the project will be subject to the requirements and restrictions of Large Projects. A Local SW Permit is required for Medium Projects. In order to obtain the Local SW Permit, Medium projects must submit an application along with an ESC Plan, as outlined in Section 10.32.090(B).
- B. Large Projects are development with land disturbing activities of one acre or more, or projects of less than one acre that are part of a common plan of development or sale. A Local SW Permit is required for Large Projects. In order to obtain the Local SW Permit, Large Projects must submit an application and demonstrate compliance with all Core Elements and treatment levels applicable to the project, as outlined in Section 10.32.090(C). Additionally, Large Projects must also determine whether they are subject to the requirements of Ecology's NPDES Construction Stormwater General Permit.
- C. The City may require any land disturbing activity of any size to obtain a Local Stormwater Permit and be subject to developing an ESC Plan or SWPPP if any of the following conditions are met:

1. The potential exists for a significant amount of sediment to migrate off-site;
2. Slopes with concentrated surface water flow;
3. Slopes greater than 2:1;
4. Direct discharge to:
 - a. South Fork Palouse River
 - b. Paradise Creek
 - c. Dry Fork Creek
 - d. Missouri Flat Creek;
5. In other situations where slope stability could be in question, as determined by the Administrator,
6. In cases where the project may negatively affect downstream or neighboring parcels;
7. Connection to the City MS4, unless otherwise covered under a right of way disturbance permit.

10.32.070 Exemptions

The following activities are exempt from this Chapter:

- A. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources. The responsible party shall clean and/or remove any eroded material and sediment immediately after the emergency situation is alleviated.
- B. Forest practices regulated under Title 222 WAC. Conversions of forest lands to other uses are not exempt. Silvicultural roads that are used to access other land uses subject to this Chapter are not exempt.
- C. Commercial agriculture practices involving working the land for production. Construction of impervious surfaces are not exempt.
- D. The following road and parking area maintenance practices are exempt:
 1. Pothole and square cut patching;
 2. Crack sealing;
 3. Resurfacing with in-kind material without expanding the road prism;
 4. Overlaying existing asphalt or concrete pavement with bituminous surface treatment (BST or "chip seal"), asphalt or concrete without expanding the area of coverage;
 5. Shoulder grading;
 6. Reshaping/regrading drainage systems; and
 7. Vegetation maintenance.

E. Oil and gas field activities such as construction of drilling sites, waste management pits, and access roads, as well as construction of transportation and treatment infrastructure such as pipelines, natural gas treatment plants, natural gas pipeline compressor stations, and crude oil pumping stations.

1. Discharge of sediment or other stormwater pollution from an oil or gas field activity is subject to the IDDE provisions of PCC 10.31.

F. Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of a facility that conforms to this Chapter.

1. Discharge of sediment from a routine maintenance activity is subject to the IDDE provisions of PCC 10.31.

10.32.080 Design Manuals

A. To guide stormwater standards and BMP selection for development, the City adopts, by reference, definitions, minimum requirements and exceptions, adjustment and variance criteria found in Appendix 1 of the most current NPDES Eastern Washington Phase II Municipal Stormwater Permit (NPDES Phase II Permit), including the mandatory incorporated provisions of the Stormwater Management Manual for Eastern Washington (2004), as amended. The regulatory thresholds and other requirements are as described in Appendix 1 of the NPDES Phase II Permit and the most currently adopted City of Pullman Design Standards except where superseded within Sections 10.32.050 and 10.32.060 of this Chapter. All Large Projects shall follow all requirements of the Stormwater Management Manual for Eastern Washington (2004), as amended, except where superseded in Appendix 1 of the NPDES Phase II Permit, or this Chapter. Unless the context requires otherwise, references to the local jurisdiction shall be construed to mean the City of Pullman.

B. The most currently adopted City of Pullman Design Standards shall be used when developing ESC Plans and determining the design storms and the minimum requirements, thresholds and standards for designing permanent stormwater collection, conveyance, flow control and treatment facilities and BMPs.

C. Use of BMPs not designed, constructed, and maintained in accordance with the design manuals and/or guidance documents identified in Section 10.32.080(A) & (B) shall be subject to Administrator approval and must be monitored for performance to demonstrate that they meet the minimum flow control and water quality performance standards of the NPDES Phase II Permit requirements.

10.32.090 Permit Requirements

A. Applicants and property owners shall allow City inspectors on-site for the purposes under 10.32.110.

B. Medium Projects - Erosion and Sediment Control Plans

1. Projects meeting the Medium Project threshold shall prepare an Erosion and Sediment Control (ESC) Plan for construction activity. The ESC Plan shall be implemented beginning with initial soil disturbance and continue until final stabilization. The most recently adopted City of Pullman Design Standards shall be used when developing the ESC Plan.
2. Each ESC Plan shall bear the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained together with the name of the principal contact at such firm.
3. Each ESC Plan shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the ESC Plan.
4. The City approved ESC Plan shall be maintained at the site during the progress of work and made available for review by the City inspector upon request.
5. ESC Plan Map Contents and Requirements - The ESC Plan shall include a legible site map (or maps) showing the entire construction site. The following features shall be identified, unless not applicable due to site conditions:
 - a. The direction of north, scale, property lines, and existing structures and roads;
 - b. Cut and fill slopes indicating the top and bottom of slope catch lines;
 - c. Approximate slopes, contours, and direction of stormwater flow before and after major grading activities;
 - d. Areas of soil disturbance and areas that will not be disturbed;
 - e. Locations of structural and operational controls (BMPs) identified in the ESC Plan;
 - f. Locations of off-site material, stockpiles, waste storage, borrow areas, and vehicle/equipment storage areas;
 - g. Locations of all adjacent surface water bodies, including wetlands;
 - h. Locations where stormwater or non-stormwater discharges off-site and/or to a surface water body, including wetlands;
 - i. Location and dimensions of stormwater facilities

C. Large Projects

1. All Large projects shall conform to the standards in the design manuals identified in Section 10.32.080 of this Chapter. Large projects are required to include the applicable minimum technical requirements of the core elements outlined below:
 - a. Core Element #1: Preparation of a Stormwater Site Plan (SSP) – Used to integrate stormwater management into project planning and design, demonstrate compliance with other applicable Core Elements, and illustrate and validate the design of any permanent stormwater management drainage facilities. Information on how to develop a SSP can be found in Chapter 3 of the Stormwater Management Manual for Eastern Washington (2004), as amended.
 - b. Core Element #2: Construction Stormwater Pollution Prevention Plan (SWPPP) – The purpose of this Core Element is to control erosion and prevent sediment and other pollutants from leaving the site. Information on how to develop a SWPPP can be found in Chapter 7 of the Stormwater Management Manual for Eastern Washington (2004), as amended.
 - c. Core Element #3: Source Control of Pollution – The purpose of this Core Element is to prevent stormwater from coming into contact with potential pollutants. Large projects shall apply all known, available and reasonable source control BMPs. All source control BMPs shall be selected, designed and maintained according to Chapter 8 of the Stormwater Management Manual for Eastern Washington (2004), as amended.
 - d. Core Element #4: Preservation of Natural Drainage Systems – The purpose of this Core Element is to maximize the extent to which stormwater discharge patterns, rates, and outfall locations remain the same after a development project. The manner by which runoff is discharged from the project site must not cause a significant adverse impact to downstream receiving waters and down-gradient properties and should be addressed as part of the off-site analysis described in Appendix 3A of Chapter 3 of the Stormwater Management Manual for Eastern Washington (2004), as amended.
 - e. Core Element #5: Runoff Treatment – The purpose of this Core Element is to protect water quality in the receiving water by reducing pollutants in stormwater using biological, physical and chemical removal methods. Applicable only to sites that are determined to have sufficient pollutant generating potential as defined in Appendix 1 of the NPDES Phase II Permit. Basic runoff treatment is required on all new development that creates 5,000 ft² of pollutant generating impervious surface (PGIS). The thresholds for redevelopment and advanced treatment requirements (metals, oil, phosphorous, etc.) are located in Appendix 1 of the NPDES Phase II Permit. Treatment facilities shall be selected, designed, sized, constructed, operated and maintained in accordance with Appendix 1 of the NPDES Phase II Permit and the guidance in Chapters 4 and 5 of the Stormwater Management Manual for Eastern Washington (2004), as amended.

- 1 f. Core Element #6: Flow Control – The purpose of this Core Element is to protect
2 stream morphology and habitat by mitigating the impacts of increased storm
3 runoff volumes and flow rates to streams. Projects that result in 10,000 square
4 feet or more of impervious surface shall construct stormwater flow control
5 facilities for any discharge of stormwater. The most currently adopted City of
6 Pullman Design Standards shall be used when determining the design storms
7 and the minimum requirements, thresholds and standards for designing
8 permanent stormwater collection, conveyance, flow control and treatment
9 facilities and BMPs. Design of flow control facilities shall also be consistent with
10 Chapter 6 of the Stormwater Management Manual for Eastern Washington
11 (2004), as amended.
12
- 13 g. Core Element #7: Operation and Maintenance – The purpose of this Core
14 Element is to prevent failure of stormwater treatment facilities or improper
15 discharges due to inadequate maintenance or improper operation. Where
16 structural BMPs are required, property owners shall operate and maintain the
17 facilities in accordance with an Operation and Maintenance (O&M) plan
18 prepared in accordance with the provisions of Chapters 5 and 6 of the
19 Stormwater Management Manual for Eastern Washington (2004), as amended.
20
- 21 2. Stormwater Pollution Prevention Plan (SWPPP)
22
- 23 a. Per 10.32.090(C)(1)(b), Large Projects shall prepare a Stormwater Pollution
24 Prevention Plan (SWPPP) for land disturbing activity as part of the Core
25 Elements of stormwater management for development.
26
- 27 b. Large projects that have obtained coverage and are in full compliance with the
28 requirements and conditions of the NPDES Construction Stormwater General
29 Permit are considered to have fully satisfied Core Element #2 in Section
30 10.32.90(C)(1)(b) and be in full compliance with the provisions of this Section.
31
- 32 c. The SWPPP shall be implemented beginning with initial soil disturbance and
33 continue until final stabilization.
34
- 35 d. Each SWPPP shall bear the name(s) and address(es) of the owner or
36 developer of the site, and of any consulting firm retained by the applicant
37 together with the name of the applicant's principal contact at such firm.
38
- 39 e. Each SWPPP shall include a statement that any land disturbing activity shall be
40 in accordance with the SWPPP and that a Certified Erosion and Sediment
41 Control Lead (CESCL) shall be on site or on call on all days when construction
42 or grading activity takes place.
43
- 44 f. The applicant shall include each of the twelve items below in the narrative of the
45 SWPPP and ensure they are implemented unless site conditions render the
46 item unnecessary and the exemption from that item is clearly justified in the
47 SWPPP.

- i. Preserve Vegetation/Mark Clearing Limits
 - ii. Establish Construction Access
 - iii. Control Flow Rates
 - iv. Install Sediment Controls
 - v. Stabilize Soils
 - vi. Protect Slopes
 - vii. Protect Drain Inlets
 - viii. Stabilize Channels and Outlets
 - ix. Control Pollutants
 - x. Control De-Watering
 - xi. Maintain BMPs
 - xii. Manage the Project
 - g. The applicability, requirements, and design details for each of the twelve SWPPP items above are outlined in Appendix 1 of the NPDES Phase II Permit and the Stormwater Management Manual for Eastern Washington (2004), as amended.
 - h. The applicant shall maintain and repair, as needed, all sediment and erosion control BMPs to assure continued performance of their intended function.
 - i. The applicant shall perform inspections of BMPs periodically and document the results of the inspections. The SWPPP and inspection records shall be maintained at the site during the progress of work and made available for review by the City inspector upon request. The Construction SWPPP shall be modified whenever there is a significant change in the design, construction, operation, or maintenance of any BMP.
3. Storm Water Pollution Prevention Plan (SWPPP) Map Contents and Requirements
 - a. The SWPPP shall include a vicinity map or general location map with sufficient detail to identify the location of the construction site and receiving waters.
 - b. The SWPPP shall include a legible site map (or maps) showing the entire construction site. The following features shall be identified, unless not applicable due to site conditions:
 - i. The direction of north, scale, property lines, and existing structures and roads;
 - ii. Cut and fill slopes indicating the top and bottom of slope catch lines;
 - iii. Approximate slopes, contours, and direction of stormwater flow before and after major grading activities;
 - iv. Areas of soil disturbance and areas that will not be disturbed;
 - v. Locations of structural and operational controls (BMPs) identified in the SWPPP;
 - vi. Locations of off-site material, stockpiles, waste storage, borrow areas,

- and vehicle/equipment storage areas;
- vii. Locations of all surface water bodies, including wetlands;
- viii. Locations where stormwater or non-stormwater discharges off-site and/or to a surface water body, including wetlands;
- ix. Location of water quality sampling station(s), if sampling is required by state or local permitting authority; and
- x. Areas where final stabilization has been accomplished and no further construction-phase requirements apply.

D. Special conditions

The City has the discretion to require a SWPPP or ESC plan if any of the conditions in Section 10.32.060(C) apply. The City also has the discretion to require additional control measures or prohibit discharges from construction activity altogether in order to comply with EPA approved TMDL waste load allocations and/or required actions listed in Appendix 2 of the NPDES Phase II Permit.

10.32.100 Procedures and Requirements

A. **Application Requirements:** Applications for stormwater permits shall be submitted and considered in the manner established by the City as follows:

1. Completed application and all applicable fees submitted to the City.
2. ESC Plan or SWPPP must be submitted with the application.
3. Schedule site visit and meeting to review application and ESC Plan or SWPPP, as necessary.
4. Request for changes will be submitted to Applicant.
5. Any changes needed on required plans and comments provided by City must be incorporated into updated plans prior to final approval.
6. Approval of Local SW Permit.

These requirements do not replace or supersede existing requirements for site plan or other development review. All other requirements must be met.

B. **Substantive Changes to Plan:** No substantive changes shall be made to an approved plan without review and written approval by the City. The City may request additional data with a plan amendment as may be necessary for a complete review of the plan and to ensure that changes to the plan will comply with the requirements of this Chapter.

C. **Expiration of Plan Approval:** The ESC Plan and SWPPP's approval expires upon issuance of a stormwater certificate of completion or one year from the date of approval unless work has actually begun on the site.

D. **Withholding Issuance of Permit:** The City may withhold issuance of a permit for failure to meet the requirements and conditions of this Chapter or if the City determines that the withholding is necessary to protect public health, safety, and welfare. The City may withhold issuance of a permit until conditions of a previous permit, including payment

of performance sureties are complied with in full. These conditions may include payment of fines from prior violations, failure to secure a stormwater certificate of completion on a previously granted permit, and extend to any sub-contractor or specialty contractor on the permitted project who has not met the above conditions.

- E. **Appeal Process:** Any decision of the City acting on an application for a stormwater permit may be appealed to Superior Court of Whitman County pursuant to the Land Use Petition Act, Chapter 36.70C RCW.

10.32.110 Project Commencement and Inspection of Stormwater BMPs.

- A. **Notice of Project Commencement:** The applicant must notify the City before the commencement of permitted land disturbing activities. In addition, the applicant must call for inspection by the City in advance of critical junctures of construction prior to covering of underground facilities.

- B. **Construction Inspections by City:** The City will conduct periodic inspections of the temporary and permanent stormwater BMPs shown on the approved SWPPP or ESC Plan. The City inspector will document any variations or discrepancies from the approved plans, and document the corrective actions required to resolve such instances. An approved final inspection by the City is required before any performance bond or guarantee, or portion thereof, shall be released. Special inspections or certifications may be required.

1. All City inspectors shall be CESCL certified prior to conducting any inspections or submitting any inspection documentation, and be qualified to perform specific technical inspections as determined by the Administrator.

- C. **Final As-Built Submittal:** If the project included construction of conveyance systems, treatment facilities, flow control facilities, or structural source control BMPs, the applicant may be required at the City's discretion to submit as-built plans (Record Drawings) to the City. These shall be engineering drawings that accurately represent the project as constructed. These corrected drawings must be legibly drafted revisions that are stamped, signed, and dated by a licensed engineer registered in the state of Washington.

10.32.120 Post-construction

- A. **Stormwater facility construction, performance surety and certification.**

1. Construction and stabilization of all stormwater drainage facilities shall be completed prior to the issuance of a stormwater certificate of completion.
2. Acceptance of a completion performance surety, in lieu of completed improvements, shall be permitted only when completion of improvements prior to issuance of a permanent certificate of occupancy is impractical (i.e., due to construction season delays or other factors beyond the proponent's control). If use of a completion performance surety is desired, the applicant shall submit a written request indicating

such to the City. The performance surety shall be an amount equal to 200% of the value of the stormwater improvements to be completed (including final site stabilization), as approved by the Administrator. The following types of sureties will be accepted:

- a. Cash;
 - b. Two party Certificate of Deposit;
 - c. Bond;
 - d. Letter of Credit; or
 - e. Promissory note secured by deed of trust. For this form of security, the value of the promissory note shall include an additional amount of \$20,000 for administrative expenses that would be incurred to liquidate said promissory note.
3. An erosion and sediment control (ESC) performance surety must be posted for 200% of the cost of proposed ESC and site stabilization BMPs in advance of issuance of standalone grading permits. Types of sureties accepted are the same as those listed in Section 10.32.120(A)(2).
4. In the event that a performance surety is accepted by the City, the applicant will complete all aspects of the stormwater drainage facility or improvements, including landscaping, irrigation, and establishment of specified vegetation in accordance with the approved plans on file with the City, prior to the release of the surety. The surety will be released upon issuance of a stormwater certificate of completion per Section 10.32.120(A)(7) below.
5. If the applicant, his or her agent, or contractor fails to comply with the Administrator's requirements as set forth in Sections 10.32.120(A)(4) and 10.32.120(A)(6), then the Administrator may cause the work to be done and the cost thereof shall be paid from the performance surety required of the applicant under this Section; provided, however, that if the cost for such work exceeds the amount of the performance surety, the excess amount shall be billed to the applicant and/or the property owner. The portion of any performance surety remaining after all claims against it have been paid and the project has been approved as complete by the Administrator and/or his designee shall be forfeited to the City and deposited in the Stormwater Fund to compensate for administrative expenses related to applicant's failure to perform.
6. For any performance surety held by the City of Pullman on or after the effective date of this Chapter, if the applicant, his or her agent, or contractor suspends or abandons the work for a period of 360 days after the last documented inspection, the performance surety shall be forfeited and deposited in the Stormwater Fund. Forfeiture of the performance surety shall not relieve the applicant of any requirements, duty, or obligation to complete the work authorized by the stormwater permit or the requirements of this Chapter.
7. Stormwater Certificate of Completion: Subsequent to final installation and

1 stabilization of all stormwater BMPs shown on the City approved plans, submission
2 of all necessary as-built plans, and final inspection and approval by the City, the City
3 shall issue a Stormwater Certificate of Completion for the project. In issuing such a
4 certificate, the City shall determine that all work has been satisfactorily completed in
5 substantial conformance with this Chapter.

6 **B. Maintenance.**

- 7 1. The property owner is responsible for the maintenance, operation and repair of all
8 stormwater drainage systems and BMPs serving their property unless the City has
9 accepted maintenance responsibility in writing and a written easement exists
10 granting an adequate and sufficient right to enter the property and conduct these
11 activities. The property owner shall maintain, operate and repair the facilities in
12 compliance with the requirements of this Chapter and Chapters 5 and 6 of the
13 Stormwater Management Manual for Eastern Washington (2004), as amended.
14
- 15 2. Property owners shall provide annual certification by a qualified third party that
16 adequate maintenance has been performed and the facilities are operating as
17 designed to protect water quality. The annual certification shall only be provided by
18 a qualified third party inspector from the list on file with the City.
19
- 20 3. The following are the minimum standards for the maintenance of stormwater
21 facilities:
 - 22 a. Facilities shall be inspected annually and cleared of debris, litter, sediment and
23 vegetation when they affect the functioning and/or design capacity of the facility.
24
 - 25 b. Grassy swales and other biofilters shall be inspected annually, or as needed,
26 and mowed or replanted as necessary. Clippings are to be removed and
27 properly disposed of.
28
 - 29 c. Maintenance of stormwater drainage facilities shall be consistent with conditions
30 of City approval, recorded agreements against subject properties, and City
31 standards as enacted at the time of approval.
32
 - 33 d. Where lack of maintenance is causing or contributing to a water quality problem
34 or violation, immediate action shall be taken by the property owner to correct the
35 problem.
36
 - 37 e. Proper access routes shall be constructed and maintained to allow equipment to
38 access and perform maintenance and repair work on all stormwater systems.
39 Access routes shall include an easement, covenant, or other authorization as
40 necessary.
41
 - 42 f. Property owners with development that falls under the Large Project category
43 shall maintain records of stormwater system operation and maintenance
44 activities, unless responsibility for operation and maintenance has been

transferred to and accepted by the City in writing per Section 10.32.120(B)(1).

10.32.130 Property owner responsibilities.

- A. The property owner shall comply with provisions of this Chapter, related PCC, and City standards. The property owner shall be responsible for repair, restoration, and perpetual maintenance of private stormwater drainage facilities associated with their property. The Administrator shall make the final determination on which stormwater drainage facilities are public and which are private.
- B. The property owner is responsible for keeping open the drainage and stormwater easements on their property. If a drainage or stormwater easement is unlawfully encroached upon or the function of a designated drainage or stormwater easement is reduced, the property owner is responsible for removing the encroachment or detriment.
- C. The property owner is responsible for keeping open maintenance access easements serving drainage facilities and drainage easements.
- D. The property owner shall not place, permit to be placed, or allow to remain any vehicles, equipment, objects, refuse, garbage or litter in a stormwater drainage facility.

10.32.140 Fees

- A. **Fee Authority.** The City shall obtain with each local stormwater permit application an application fee as established by the City by resolution to cover expenses connected with the review and inspection of the ESC Plan and/or SWPPP.
 - 1. Applicants must pay application fees before the review process may begin.
 - 2. Application fees are payable at the time of application and are non-refundable.
 - 3. These fees are in addition to any other local or state fees that may be charged under any other law, bylaw, or PCC.
- B. **Revision of Fee Schedules and Regulations Governing Fees.** The City may review and propose revision to its regulations and fee schedules periodically as it sees fit. The schedule of fees and charges proposed by the City shall be adopted by the City Council and established by resolution and may be altered or amended only by the City Council.

10.32.150 Violations

- A. **General.** If the Administrator and/or designee determine that a violation of this Chapter has occurred, a written Notice of Violation or a Stop Work Order may be issued in accordance with the provisions found in Chapter 1 (Administration) of the International Building Code for issuance of a written Notice of Violation (Section 114) or a Stop Work Order (Section 115). The Administrator and/or designee have the discretion to decide whether the actions taken by the applicant within 48 hours are sufficient to have addressed the problem, or whether a fine should be imposed.

B. **Notice of Violation.** A written notice of violation will contain the following:

1. Name and address of the person(s) charged with the violation.
2. Street address, or brief legal description, of property on which the violation has been determined to exist.
3. Description of the violation.
4. Actions necessary to correct the violation.
5. A timeline for correction.
6. Verbiage stating that if the violation is not abated, a fine of up to \$1000 per day may be imposed until the violation is abated.
7. Instructions on how to appeal the notice of violation.

The Administrator and/or designee will deliver the written notice of violation to the applicant. Alternatively, the written notice may also be mailed by regular mail and shall be deemed served three days from date of mailing.

C. **Monitoring.** The Administrator and/or designee has the right to install or require the applicant to install monitoring equipment as is reasonably necessary in the opinion of the Administrator to conduct appropriate monitoring and/or sampling of the property's stormwater discharge. The sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the applicant at their own expense. All devices used to measure stormwater flow and quality shall be calibrated according to industry standards to ensure their accuracy. All data shall be collected in accordance with a sampling and analysis plan that is approved by the Administrator and/or designee.

10.32.160 Right of entry

Where the Administrator and/or designee has reasonable cause to believe that there exists a violation of this Chapter or permit issued under this Chapter, the Administrator and/or designee is authorized to enter the project site at reasonable times to inspect or to perform the duties imposed by this Chapter, provided that if such project site is occupied that credentials be presented to the applicant and entry requested. If such project site is unoccupied, the Administrator and/or designee shall first make a reasonable effort to locate the applicant or other person having charge or control of the project site and request entry.

10.32.170 Penalties.

A. **Failure to Comply a Civil Infraction.**

Violation of any provision or failure to comply with any of the requirements of this Chapter is a Class 1 civil infraction, subject to enforcement under PCC 1.02. The civil infraction forfeiture shall be a continuing forfeiture for each day the violation exists.

B. **Civil Penalty from Notice of Violation.**

- (1) In addition to any civil infraction forfeiture, criminal penalty, and/or other available sanction or remedial procedure, any person engaging in conduct made unlawful by this chapter shall be subject to a cumulative civil penalty in an amount up to \$1,000 per day for each violation from the date set for compliance until the

date of compliance.

- (2) Any such civil penalty shall be imposed by the Administrator in writing and delivered by personal service or first-class mail, postage pre-paid, to the person or entity incurring the penalty, describing the violation with reasonable particularity and ordering any appropriate corrective action to be taken within a specified period of time.
- (3) Within thirty (30) days after the notice of civil penalty is issued, the person incurring the penalty may apply in writing to the Administrator for mitigation of such penalty. The Administrator may mitigate the penalty in writing by whatever terms are deemed proper to encourage compliance with this chapter. A mitigation determination is deemed final as of the date it is issued by the Administrator.
- (4) In lieu of application for mitigation, any penalty imposed pursuant to this chapter may be appealed to Superior Court of Whitman County pursuant to the Land Use Petition Act, Chapter 36.70C RCW.
- (5) Any penalty not timely appealed or mitigated shall be due and payable thirty (30) days after the notice of civil penalty is issued, or determination of an appeal is final, or a mitigation decision is issued. All civil penalties collected under this section shall be deposited into the City's stormwater fund and shall be used for the protection of surface, ground and stormwater as set forth in this chapter.

C. Additional Remedies.

- (1) In addition to any other remedy provided by this chapter or under the Pullman City Code, the City may initiate injunction or abatement proceedings or any other appropriate action in courts against any person who violates or fails to comply with any provision of this chapter to prevent, enjoin, abate, and/or terminate violations of this chapter and/or to restore a condition which existed prior to the violation. In any such proceeding, the person violating and/or failing to comply with any provisions of this chapter shall be liable for the costs and reasonable attorneys' fees incurred by the City in bringing, maintaining and/or prosecuting such action.
- (2) Any person who violates any provision of this chapter may also be in violation of the Federal Clean Water Act, NPDES Phase II Permit, and/or RCW 90.48 and may be subject to additional sanctions including civil and criminal penalties. Any enforcement action authorized under this Chapter shall also include written notice to the violator of such potential liability.

Section 10. Severability. If any one or more section, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

Section 11. Effective Date. This ordinance shall be in full force and take effect five (5) days from and after its publication, or a summary thereof is published, in the official newspaper of the City of Pullman.

PASSED by the City Council of the City of Pullman at a regular meeting held on the _____ day of _____, 2010.

SIGNED by the Mayor in Authentication and Approval Thereof on the _____ day of _____, 2010.

Mayor Glenn A. Johnson

ATTEST:

Finance Director

Approved as to form:

City Attorney

Summary Published: _____

DRAFT